

आदेश की क्रम सं० और तारीख	आदेश और पदाधिकारी ² का हस्ताक्षर 2	आदेश पर की गई कार्रवाई के बारे में टिप्पणी तारीख सहित 3
	<p>As per the Learned Advocate of the Revisionist, the Revisionist is an ex-service man who was a beneficiary of the Government allotment of land to him in the year 1972 for a period of 30 years. He further claims that he has been enjoying peaceful possession of the same since 1972. The land so settled was having an area of 15 decimals. Problem arose, as per the Revisionist, when 2.5 decimals land was given from his share of 15 decimals to OP No 7 Md. Sadiq under Bhudaan Yagya Act. He came to know of this in the year 2002 and filed a Bhudaan Miscellaneous Case No. 95/2002. On this matter, the Learned Additional Collector finally passed an order on 15.07.2006 rejecting the claim of the Petitioner. Thus aggrieved the Revisionist went to the High Court (CWJC No. 11546/2006) who vide order dated 04.07.2013 remanded the case to the Board of Revenue to be decided under Section 17A of Bihar Bhudaan Yagya Act, 1954 and hence this proceeding.</p> <p>He further says that he is in possession of only 12.5 decimal of land instead of 15 decimal of land. Additionally, he points out that it is OP No. 7 who has got 2.5 decimal land through fraudulent means. As per him, the OP No. 7 is not a landless person. He claims that OP No. 7 has sold various plots belonging to him to other persons between the years 1996 to 2006. He has filed the copy of the sale deeds executed by the OP No. 7 to various other persons. He says that OP No 7 has 10 katha residential land in Gopalganj town and is a rich person and unfit to be eligible under Bhudaan Act.</p>	

[Handwritten signature]

आदेश की क्रम सं० और तारीख	आदेश और पदाधिकारी का हस्ताक्षर 2	आदेश पर की गई कार्रवाई के बारे में टिप्पणी तारीख सहित 3
	<p>The Learned Advocate of the OP No. 7 is also heard in great detail. He says that the portion of 2.5 decimals allotted to him is not a part and parcel of the 15 decimals land allotted to the Revisionist. He draws the attention of this Court at the relevant portion of the order passed by the Learned Additional Collector. He further says that the order was passed based on the verification report submitted by the Amin and after a physical inspection conducted by the Circle Officer. Moreover, the lease with the Revisionist was over in 2002 and the Revisionist did not renew the lease.</p> <p>Having heard both the parties and perused their written notes of argument as well as the other material available on the records, my own findings are as under:-</p> <p>(a) I find that there is a history of litigation and bad blood between the two parties. Based on a police report, a proceeding under Section 144 CrPC was also drawn against the parties where the Learned SDM found that the land allotted to OP No. 7 is separate from the land allotted to the Revisionist.</p> <p>(b) I also find that the land allotted to the Revisionist was only for a period of 30 years which expired in the year 2002. After that period, the Revisionist has not bothered to get his lease renewed. He had also not submitted any evidence in his written note of argument whether he has filed any renewal application before any Revenue Authority.</p> <p>(c) From the perusal of the report of Circle Officer dated 10.01.2003, it appears that both the parties are in possession of their respective plots.</p>	

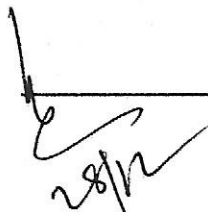
28/12

(d) Now the question that comes to my mind is as to what is the area under possession of the Revisionist. I have carefully gone through the report of the Anchal Amin, Sri Chandrama Prasad. It appears that the Revisionist is not entirely in possession of 15 decimal of land. I note the report submitted by the Amin to the Learned Collector Gopalganj dated 13.10.2004 and as per the report it seems that the Revisionist is in possession of only 12 decimals of land.

(e) However, it can be seen with certainty that the OP No. 7 is in possession of 2 decimal of land though the said possession has not been very peaceful given the proceeding under Section 144 CrPC.

(f) I also note with concern that there is strong evidence to suggest that OP No. 7 is not a landless person and therefore may not be of eligible category under the Bhudaan Yagya Act and to that extent, I find that the finding of the Learned DCLR Gopalganj dated 16.8.2005 wherein he has held that the OP No. 7 is a landless person. This fact has not been denied by the OP during the course of the hearing.

Based on the above findings I hold that there is enough material on the record to indicate some merit in the argument put forth by the Revisionist. That be the case, I remand the entire matter back to the Learned Collector for deciding on the following three points:-



आदेश की क्रम सं० और तारीख	आदेश और पदाधिकारी का हस्ताक्षर 2	आदेश पर की गई कार्रवाई के बारे में लिपिणी तारीख सहित 3
	<p>(a) To see whether the lease held by the Revisionist is still valid. If it has expired in 2002, which is indicated in this proceeding, then the Revisionist is given liberty to file a renewal application before the Learned Collector. The Learned Collector shall then decide whether to renew the lease or not as per law.</p> <p>(b) If the Collector decides to renew the lease, then it must be ensured that the Revisionist is in the possession of the area (15 decimals) for which the lease is renewed. The Collector however shall be fully competent to renew the lease for a lesser area if he feels so.</p> <p>(c) Credible evidence has been produced before this Court that OP No. 7 is not a landless person and hence not eligible under the Bhudaan Yagya Act for any settlement of land. The Revisionist is directed to file the copy of the sale deeds executed the OP No. 7 before the Learned Collector. The Learned Collector should take a view and decide whether the OP No. 7 was actually eligible for allotment of land under Bhudaan Yagya Act. Needless to mention, that if OP No. 7 is found to ineligible then his settlement should be cancelled.</p> <p>With the above observations, the matter is remanded back to Learned Collector who shall decide on the above three points with in a period of three months. The Revisionist is directed to file an application before the Learned Collector within 15 days from the date of this order.</p>	

The Learned Collector is also advised to issue notices to the Revisionist as well as the OP No. 7 for enquiry and further hearing on the above three issues, as soon as he gets the copy of this order.

Dictated & Corrected
26/12/2016
K.K.Pathak
Additional Member
Board of Revenue, Bihar.

28/12/2016
(K.K.Pathak)
Additional Member
Board of Revenue, Bihar.